



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,497	05/10/2001	Todd W. L. Vigil	4022-4001US1	6397

27123 7590 03/15/2004
MORGAN & FINNEGAN, L.L.P.
345 PARK AVENUE
NEW YORK, NY 10154

EXAMINER

YOUNG, JOHN L

ART UNIT	PAPER NUMBER
----------	--------------

3622

DATE MAILED: 03/15/2004

22

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/852,497

Applicant(s)

L. VIGIL ET AL.

Examiner

John L Young

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-82 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-82 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

JOHN LEONARD YOUNG, ESQ.
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 3622

FIFTH OFFICE ACTION REJECTION (PAPER # 22)

STATUS

1. Claims 1-82 are pending.

DRAWINGS

2. This application has been filed with drawings that are considered informal; said drawings are acceptable for examination purposes. The review process for drawings that are included with applications on filing has been modified in view of the new requirement to publish applications at eighteen months after the filing date of applications, or any priority date claimed under 35 U.S.C. §§119, 120, 121, or 365.

PROVISIONAL CLAIM REJECTIONS

3. **PROVISIONAL REJECTION MAINTAINED.**

CLAIM REJECTIONS — 35 U.S.C. §101

4. **REJECTIONS MAINTAINED.**

CLAIM REJECTIONS — 35 U.S.C. §103(a)

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Art Unit: 3622

5. Claims 1-82 are rejected under 35 U.S.C. §103(a) as being obvious over Small 5,791,991 (8/11/1998) (herein referred to as "Small") in view of De Rafael 6,529,878 (03/04/2003) [US f/d: 03/19/1999] (herein referred to as "De Rafael") and further in view of Von Kohorn US 5,034,807 (7/23/1991) [herein referred to as ("Von Kohorn")].

As per independent claim 1, Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) shows elements that suggest the elements and limitations of claim 1.

Small lacks an explicit recitation of "a fleeting opportunity to submit the entry only after the advertisement has first been displayed to the viewer for a period of time without the opportunity to submit an entry. . . ." even though Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) suggests same.

De Rafael (col. 7, ll. 47-62) discloses "users . . . who viewed a certain advertisement . . . within a certain time. . . ."

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have provided means of "*targeting . . . advertisements and responding to consumer preferences. . . .*" (see De

Art Unit: 3622

Rafael (col. 3, ll. 40-45) and would have provided means for *"an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers."* (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

Von Kohorn (the ABSTRACT; FIG. 15; col. 48, ll. 35-44; and col. 57, ll. 5-13) in view of Small and De Rafael shows "A method of advertising to a viewer using an interactive media system . . . wherein the viewer is offered a fleeting opportunity to submit the entry only after the advertisement has first been displayed to the viewer for a period of time without the opportunity to submit an entry. . . ."

Von Kohorn proposes "fleeting" time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of Von Kohorn with the teachings of Small and De Rafael because such combination would have provided means of *"targeting . . . advertisements and responding to consumer preferences. . . ."* (see De Rafael (col. 3, ll. 40-45) and would have provided means for *"an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers."* (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)), and to *"ensure that the . . . audience will pay*

Art Unit: 3622

close attention to . . . a commercial, especially if a valuable prize may be won. . . .” (see Von Kohorn (col. 48, ll. 35-40)).

As per independent claim 2, Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) shows elements that suggest the elements and limitations of claim 2.

Small lacks an explicit recitation of “a fleeting opportunity to submit at least one entry to win the prize . . . wherein the viewer is offered the fleeting opportunity only after the advertisement has first been displayed to the viewer for a period of time without the opportunity to submit an entry. . . .” even though Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) suggests same.

De Rafael (col. 7, ll. 47-62) discloses “users . . . who viewed a certain advertisement . . . within a certain time. . . .”

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have provided means of “*targeting . . . advertisements and responding to consumer preferences. . . .*” (see De Rafael (col. 3, ll. 40-45) and would have provided means for “*an improved consumer*

Art Unit: 3622

product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers." (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

Von Kohorn (the ABSTRACT; FIG. 15; col. 48, ll. 35-44; and col. 57, ll. 5-13) in view of Small and De Rafael shows "A method of advertising to at least one viewer using an interactive media system . . . wherein the viewer is offered a fleeting opportunity only after the advertisement has first been displayed to the viewer for a period of time. . . ."

Von Kohorn proposes "fleeting" time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of Von Kohorn with the teachings of Small and De Rafael because such combination would have provided means of "*targeting . . . advertisements and responding to consumer preferences. . . .*" (see De Rafael (col. 3, ll. 40-45) and would have provided means for "*an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers.*" (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)), and to "*ensure that the . . . audience will pay close attention to . . . a commercial, especially if a valuable prize may be won. . . .*" (see Von Kohorn (col. 48, ll. 35-40)).

Art Unit: 3622

As per independent claim 3, Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) shows elements that suggest the elements and limitations of claim 3.

Small lacks an explicit recitation of the advertisement viewing time elements and limitations of claim 3, even though Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) suggests same.

De Rafael (col. 7, ll. 47-62) discloses *"users . . . who viewed a certain advertisement . . . within a certain time. . . ."*

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have provided means of *"targeting . . . advertisements and responding to consumer preferences. . . ."* (see De Rafael (col. 3, ll. 40-45) and would have provided means for *"an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer*

Art Unit: 3622

product manufacturers and enhanced interest for consumers.” (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

Von Kohorn (the ABSTRACT; FIG. 15; col. 48, ll. 35-44; and col. 57, ll. 5-13) in view of Small and De Rafael shows “A method of advertising to at least one viewer using an interactive media system . . . wherein such opportunity is offered to such viewer only for a limited period defining a . . . fleeting opportunity.”

Von Kohorn proposes “fleeting” time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of Von Kohorn with the teachings of Small and De Rafael because such combination would have provided means of “*targeting . . . advertisements and responding to consumer preferences. . . .*” (see De Rafael (col. 3, ll. 40-45) and would have provided means for “*an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers.*” (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)), and to “*ensure that the . . . audience will pay close attention to . . . a commercial, especially if a valuable prize may be won. . . .*” (see Von Kohorn (col. 48, ll. 35-40)).

Art Unit: 3622

As per claims 4-21, Small in view of De Rafael and Von Kohorn shows the method of claim 3 and subsequent base claims depending from claim 3. (See the rejection of claim 3 supra).

Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) in view of De Rafael (col. 7, ll. 47-62) shows elements that suggest the elements and limitations of claims 4-21.

Small lacks an explicit recitation of the elements and limitations of claims 4-21, even though Small in view of De Rafael and Von Kohorn suggests same.

De Rafael (col. 7, ll. 47-62 and whole document) discloses *"users . . . who viewed a certain advertisement . . . within a certain time. . . ."*

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have suggested the elements and limitations of claims 4-21 by providing means for *"an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers."* (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)), and to *"ensure that the . . . audience will pay close attention to . . . a*

Art Unit: 3622

commercial, especially if a valuable prize may be won. . . .” (see Von Kohorn (col. 48, ll. 35-40)).

As per independent claim 22, Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) shows elements that suggest the elements and limitations of claim 22.

Small lacks an explicit recitation of the “fleeting opportunity. . . .” even though Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) suggests same.

De Rafael (col. 7, ll. 47-62) discloses “users . . . who viewed a certain advertisement . . . within a certain time. . . .”

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have provided means of “targeting . . . advertisements and responding to consumer preferences. . . .” (see De Rafael (col. 3, ll. 40-45) and would have provided means for “an improved consumer product promotion method. . . . which provides for effective product promotion with

Art Unit: 3622

minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers. " (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

Von Kohorn (the ABSTRACT; FIG. 15; col. 48, ll. 35-44; and col. 57, ll. 5-13) in view of Small and De Rafael shows "a fleeting opportunity to submit an entry. . . ."

Von Kohorn proposes "fleeting" time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of Von Kohorn with the teachings of Small and De Rafael because such combination would have provided means of "*targeting . . . advertisements and responding to consumer preferences. . . .*" (see De Rafael (col. 3, ll. 40-45) and would have provided means for "*an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers.*" (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)), and to "*ensure that the . . . audience will pay close attention to . . . a commercial, especially if a valuable prize may be won. . . .*" (see Von Kohorn (col. 48, ll. 35-40)).

As per independent claim 23, Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll.

Art Unit: 3622

1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) shows elements that suggest the elements and limitations of claim 23.

Small lacks an explicit recitation of "fleeting opportunity. . . ." advertisement viewing time elements and limitations of claim 23, even though Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) suggests same.

De Rafael (col. 7, ll. 47-62) discloses "users . . . who viewed a certain advertisement . . . within a certain time. . . ."

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have provided means of *"targeting . . . advertisements and responding to consumer preferences. . . ."* (see De Rafael (col. 3, ll. 40-45) and would have provided means for *"an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers."* (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

Von Kohorn (the ABSTRACT; FIG. 15; col. 48, ll. 35-44; and col. 57, ll. 5-13) in view of Small and De Rafael shows "a fleeting opportunity. . . ." to submit an entry.

Art Unit: 3622

Von Kohorn proposes “fleeting” time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of Von Kohorn with the teachings of Small and De Rafael because such combination would have provided means of *“targeting . . . advertisements and responding to consumer preferences. . . .”* (see De Rafael (col. 3, ll. 40-45) and would have provided means for *“an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers.”* (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)), and to *“ensure that the . . . audience will pay close attention to . . . a commercial, especially if a valuable prize may be won. . . .”* (see Von Kohorn (col. 48, ll. 35-40)).

As per claims 24-40, Small in view of De Rafael and Von Kohorn shows the method of claim 23 and subsequent base claims depending from claim 23. (See the rejection of claim 23 supra).

Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) in view of De Rafael (col. 7, ll. 47-62) shows elements that suggest the elements and limitations of claims 24-40.

Art Unit: 3622

Small lacks an explicit recitation of the viewing time elements and limitations of claims 24-40, even though Small in view of De Rafael suggests same.

Small lacks an explicit recitation of the elements and limitations of claims 24-40, even though Small in view of De Rafael suggests same.

De Rafael (col. 7, ll. 47-62 and whole document) discloses *"users . . . who viewed a certain advertisement . . . within a certain time. . . ."*

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have suggested the elements and limitations of claims 24-40 by providing means for *"an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers."* (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

Von Kohorn (the ABSTRACT; FIG. 15; col. 48, ll. 35-44; and col. 57, ll. 5-13) in view of Small and De Rafael shows "a fleeting opportunity. . . ." to submit an entry.

Von Kohorn proposes "fleeting" time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of Von Kohorn with the teachings of Small and De Rafael because such combination would have provided

Art Unit: 3622

means of *"targeting . . . advertisements and responding to consumer preferences. . . ."* (see De Rafael (col. 3, ll. 40-45) and would have provided means for *"an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers."* (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)), and to *"ensure that the . . . audience will pay close attention to . . . a commercial, especially if a valuable prize may be won. . . ."* (see Von Kohorn (col. 48, ll. 35-40)).

As per independent claim 41, Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) shows elements that suggest the elements and limitations of claim 41.

Small lacks an explicit recitation of the "fleeting opportunity. . ." advertisement viewing time elements and limitations of claim 41, even though Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) suggests same.

De Rafael (col. 7, ll. 47-62) discloses "users . . . who viewed a certain advertisement . . . within a certain time. . . ."

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary

Art Unit: 3622

skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have provided means of *"targeting . . . advertisements and responding to consumer preferences. . . ."* (see De Rafael (col. 3, ll. 40-45) and would have provided means for *"an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers."* (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

Von Kohorn (the ABSTRACT; FIG. 15; col. 48, ll. 35-44; and col. 57, ll. 5-13) in view of Small and De Rafael shows "a fleeting opportunity. . . ." to submit an entry.

Von Kohorn proposes "fleeting" time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of Von Kohorn with the teachings of Small and De Rafael because such combination would have provided means of *"targeting . . . advertisements and responding to consumer preferences. . . ."* (see De Rafael (col. 3, ll. 40-45) and would have provided means for *"an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers."* (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)), and to *"ensure that the . . . audience will pay*

Art Unit: 3622

close attention to . . . a commercial, especially if a valuable prize may be won. . . .” (see Von Kohorn (col. 48, ll. 35-40)).

As per claims 42-59, Small in view of De Rafael and Von Kohorn shows the system of claim 41 and subsequent base claims depending from claim 41. (See the rejection of claim 41 supra).

Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) in view of De Rafael (col. 7, ll. 47-62) shows elements that suggest the elements and limitations of claims 42-59.

Small lacks an explicit recitation of the “fleeting opportunity. . . .” viewing time elements and limitations of claims 42-59, even though Small in view of De Rafael suggests same.

De Rafael (col. 7, ll. 47-62 and whole document) discloses “users . . . who viewed a certain advertisement . . . within a certain time. . . .”

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have suggested the elements and limitations of claims 42-59 by providing means for “an improved consumer product promotion method. . . . which provides for effective product promotion with minimal

Art Unit: 3622

expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers.” (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

Von Kohorn (the ABSTRACT; FIG. 15; col. 48, ll. 35-44; and col. 57, ll. 5-13) in view of Small and De Rafael shows “a fleeting opportunity. . . .” to submit an entry.

Von Kohorn proposes “fleeting” time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of Von Kohorn with the teachings of Small and De Rafael because such combination would have provided means of “*targeting . . . advertisements and responding to consumer preferences. . . .*” (see De Rafael (col. 3, ll. 40-45) and would have provided means for “*an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers.*” (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)), and to “*ensure that the . . . audience will pay close attention to . . . a commercial, especially if a valuable prize may be won. . . .*” (see Von Kohorn (col. 48, ll. 35-40)); furthermore,

Official Notice is taken that both the concepts and the advantages of the elements and limitations of claims 42-59 were well known and expected in the art at the time of the invention. It would have been obvious to a person of ordinary skill in the art at the time of the invention to include the elements and limitations of claims 42-59, because such

Art Unit: 3622

inclusion would have provided means of *"targeting . . . advertisements and responding to consumer preferences. . . ."* (see De Rafael (col. 3, ll. 40-45) and would have provided means for *"an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers."* (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)), and to *"ensure that the . . . audience will pay close attention to . . . a commercial, especially if a valuable prize may be won. . . ."* (see Von Kohorn (col. 48, ll. 35-40)).

As per independent claim 60, Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) shows elements that suggest the elements and limitations of claim 60.

Small lacks an explicit recitation of the "fleeting opportunity. . . ." time elements and limitations of claim 60, even though Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) suggests same.

De Rafael (col. 7, ll. 47-62) discloses "users . . . who viewed a certain advertisement . . . within a certain time. . . ."

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary

Art Unit: 3622

skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have provided means of *"targeting . . . advertisements and responding to consumer preferences. . . ."* (see De Rafael (col. 3, ll. 40-45) and would have provided means for *"an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers."* (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

Von Kohorn (the ABSTRACT; FIG. 15; col. 48, ll. 35-44; and col. 57, ll. 5-13) in view of Small and De Rafael shows "a fleeting opportunity. . . ." time elements.

Von Kohorn proposes "fleeting" time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of Von Kohorn with the teachings of Small and De Rafael because such combination would have provided means of *"targeting . . . advertisements and responding to consumer preferences. . . ."* (see De Rafael (col. 3, ll. 40-45) and would have provided means for *"an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers."* (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)), and to *"ensure that the . . . audience will pay*

Art Unit: 3622

close attention to . . . a commercial, especially if a valuable prize may be won. . . .” (see Von Kohorn (col. 48, ll. 35-40)).

As per independent claim 61 Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) shows elements that suggest the elements and limitations of claim 61.

Small lacks an explicit recitation of the “fleeting opportunity” time elements and limitations of claim 61, even though Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) suggests same.

De Rafael (col. 7, ll. 47-62) discloses “users . . . who viewed a certain advertisement . . . within a certain time. . . .”

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have provided means of “targeting . . . advertisements and responding to consumer preferences. . . .” (see De Rafael (col. 3, ll. 40-45) and would have provided means for “an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer

Art Unit: 3622

product manufacturers and enhanced interest for consumers." (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

Von Kohorn (the ABSTRACT; FIG. 15; col. 48, ll. 35-44; and col. 57, ll. 5-13) in view of Small and De Rafael shows "a fleeting opportunity. . . ." time elements and limitations.

Von Kohorn proposes "fleeting" time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of Von Kohorn with the teachings of Small and De Rafael because such combination would have provided means of "*targeting . . . advertisements and responding to consumer preferences. . . .*" (see De Rafael (col. 3, ll. 40-45) and would have provided means for "*an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers.*" (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)), and to "*ensure that the . . . audience will pay close attention to . . . a commercial, especially if a valuable prize may be won. . . .*" (see Von Kohorn (col. 48, ll. 35-40)).

Art Unit: 3622

As per claims 62-72, Small in view of De Rafael and Von Kohorn shows the system of claim 61 and subsequent base claims depending from claim 61. (See the rejection of claim 61 supra).

Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) in view of De Rafael (col. 7, ll. 47-62) shows elements that suggest the elements and limitations of claims 62-72.

Small lacks an explicit recitation of the viewing time elements and limitations of claims 62-72, even though Small in view of De Rafael suggests same.

De Rafael (col. 7, ll. 47-62 and whole document) discloses *"users . . . who viewed a certain advertisement . . . within a certain time. . . ."*

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have suggested the elements and limitations of claims 62-72 by providing means for *"an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers."* (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

Art Unit: 3622

Von Kohorn (the ABSTRACT; FIG. 15; col. 48, ll. 35-44; and col. 57, ll. 5-13) in view of Small and De Rafael shows “a fleeting opportunity. . . .” time elements.

Von Kohorn proposes “fleeting” time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of Von Kohorn with the teachings of Small and De Rafael because such combination would have provided means of “*targeting . . . advertisements and responding to consumer preferences. . . .*” (see De Rafael (col. 3, ll. 40-45) and would have provided means for “*an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers.*” (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)), and to “*ensure that the . . . audience will pay close attention to . . . a commercial, especially if a valuable prize may be won. . . .*” (see Von Kohorn (col. 48, ll. 35-40)).

As per independent claim 73, Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) shows elements that suggest the elements and limitations of claim 73.

Small lacks an explicit recitation of the “fleeting time. . . .” elements and limitations of claim 73, even though Small (the ABSTRACT; FIG. 1 through FIG. 8;

Art Unit: 3622

col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) suggests same.

De Rafael (col. 7, ll. 47-62) discloses "users . . . who viewed a certain advertisement . . . within a certain time. . . ."

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have provided means of *"targeting . . . advertisements and responding to consumer preferences. . . ."* (see De Rafael (col. 3, ll. 40-45) and would have provided means for *"an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers."* (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)); furthermore,

Von Kohorn (the ABSTRACT; FIG. 15; col. 48, ll. 35-44; and col. 57, ll. 5-13) in view of Small and De Rafael shows "fleeting opportunity. . . ." time elements.

Von Kohorn proposes "fleeting" time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of Von Kohorn with the teachings of Small and De Rafael because such combination would have provided means of *"targeting . . . advertisements and responding to consumer preferences. . . ."*

Art Unit: 3622

(see De Rafael (col. 3, ll. 40-45) and would have provided means for *“an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers.”* (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)), and to *“ensure that the . . . audience will pay close attention to . . . a commercial, especially if a valuable prize may be won. . . .”* (see Von Kohorn (col. 48, ll. 35-40)).

As per independent claim 74, Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) shows elements that suggest the elements and limitations of claim 74.

Small lacks an explicit recitation of the “fleeting time. . . .” elements and limitations of claim 74, even though Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) suggests same.

De Rafael (col. 7, ll. 47-62) discloses “users . . . who viewed a certain advertisement . . . within a certain time. . . .”

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the

Art Unit: 3622

teachings of Small because such combination would have provided means of *“targeting . . . advertisements and responding to consumer preferences. . . .”* (see De Rafael (col. 3, ll. 40-45) and would have provided means for *“an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers.”* (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

Von Kohorn (the ABSTRACT; FIG. 15; col. 48, ll. 35-44; and col. 57, ll. 5-13) in view of Small and De Rafael shows the “fleeting opportunity. . . .” time elements.

Von Kohorn proposes “fleeting” time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of Von Kohorn with the teachings of Small and De Rafael because such combination would have provided means of *“targeting . . . advertisements and responding to consumer preferences. . . .”* (see De Rafael (col. 3, ll. 40-45) and would have provided means for *“an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers.”* (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)), and to *“ensure that the . . . audience will pay close attention to . . . a commercial, especially if a valuable prize may be won. . . .”* (see Von Kohorn (col. 48, ll. 35-40)).

Art Unit: 3622

As per claim 75, Small in view of De Rafael and Von Kohorn shows the system of claim 66. (See the rejection of claim 66 supra).

Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) in view of De Rafael (col. 7, ll. 47-62) shows elements that suggest the elements and limitations of claim 75.

Small lacks an explicit recitation of the “fleeting opportunity. . . .” time elements and limitations of claim 75, even though Small in view of De Rafael suggests same.

De Rafael (col. 7, ll. 47-62 and whole document) discloses “*users . . . who viewed a certain advertisement . . . within a certain time. . . .*”

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have suggested the elements and limitations of claim 75 by providing means for “*an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product*

Art Unit: 3622

manufacturers and enhanced interest for consumers." (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

Von Kohorn (the ABSTRACT; FIG. 15; col. 48, ll. 35-44; and col. 57, ll. 5-13) in view of Small and De Rafael shows the "fleeting opportunity. . . ." time elements.

Von Kohorn proposes "fleeting" time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of Von Kohorn with the teachings of Small and De Rafael because such combination would have provided means of *"targeting . . . advertisements and responding to consumer preferences. . . ."* (see De Rafael (col. 3, ll. 40-45) and would have provided means for *"an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers."* (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)), and to *"ensure that the . . . audience will pay close attention to . . . a commercial, especially if a valuable prize may be won. . . ."* (see Von Kohorn (col. 48, ll. 35-40)).

As per claims 76-77, Small in view of De Rafael and Von Kohorn shows the method/system of claims 1-75 and subsequent base claims depending from claims 1-75. (See the rejection of claims 1-75 supra).

Art Unit: 3622

Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) in view of De Rafael (col. 7, ll. 47-62) shows elements that suggest the elements and limitations of claims 76-77.

Small lacks an explicit recitation of "fleeting opportunity. . . ." time elements and limitations of claims 76-77, even though Small in view of De Rafael suggests same.

De Rafael (col. 7, ll. 47-62 and whole document) discloses *"users . . . who viewed a certain advertisement . . . within a certain time. . . ."*

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have suggested the elements and limitations of claims 76-77 by providing means for *"an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers."* (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

Von Kohorn (the ABSTRACT; FIG. 15; col. 48, ll. 35-44; and col. 57, ll. 5-13) in view of Small and De Rafael shows the "fleeting opportunity. . . ." time elements.

Von Kohorn proposes "fleeting" time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the

Serial Number: 09/852,497

(Vigil et al.)

33

Art Unit: 3622

(703)305-7687 (for formal communications EXPEDITED PROCEDURE) or

(703) 305-7687 (for formal communications marked AFTER-FINAL) or

(703) 746-7240 (for informal communications marked PROPOSED or DRAFT).

Hand delivered responses may be brought to:

Seventh Floor Receptionist
Crystal Park V
2451 Crystal Drive
Arlington, Virginia.

Art Unit: 3622

art at the time of the invention to combine the disclosure of Von Kohorn with the teachings of Small and De Rafael because such combination would have provided means of *"targeting . . . advertisements and responding to consumer preferences. . . ."* (see De Rafael (col. 3, ll. 40-45) and would have provided means for *"an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers."* (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)), and to *"ensure that the . . . audience will pay close attention to . . . a commercial, especially if a valuable prize may be won. . . ."* (see Von Kohorn (col. 48, ll. 35-40)).

Independent claim 78 is rejected for substantially the same reasons as independent claim 1.

Independent claim 79 is rejected for the same reasons as independent claim 1.

Independent claim 80 is rejected for substantially the same reasons as independent claim 1.

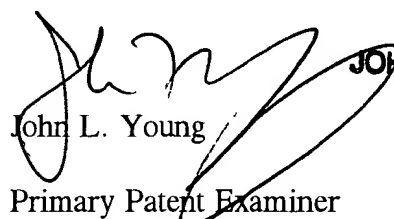
Application/Control Number: 09/852,497
Art Unit: 3622

Page 2

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L. Young who may be reached via telephone at (703) 305-3801. The examiner can normally be reached Monday through Friday between 8:30 A.M. and 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber, may be reached at (703) 305-8469.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.


John L. Young
Primary Patent Examiner

**JOHN LEONARD YOUNG, ESQ.
PRIMARY EXAMINER**

March 10, 2004